

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

ALLIANCE FOR HIPPOCRATIC  
MEDICINE, *et al.*,

*Plaintiffs,*

v.

U.S. FOOD AND DRUG  
ADMINISTRATION, *et al.*,

*Defendants,*

DANCO LABORATORIES, LLC,

*Intervenor-Defendant.*

Case No. 2:22-cv-00223-Z

**PROPOSED *AMICUS CURIAE* CHARLOTTE LOZIER INSTITUTE'S  
MOTION FOR LEAVE TO FILE BRIEF AND  
TO EXCEED PAGE LIMIT IN SUPPORT OF  
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

Proposed *amicus*, the Charlotte Lozier Institute (CLI), respectfully moves for leave to file an *amicus* brief and to exceed the standard 25-page limit. *See* Local Rule 7.2(b), 7.2(c). Pursuant to Local Rule 7.1(a), the parties do not oppose this motion.<sup>1</sup> Pursuant to Local Rule 7.2(b), the attached brief, which supports Plaintiffs’ Motion for a Preliminary Injunction, specifically sets forth CLI’s interests in the outcome of the litigation.

In support of this motion, proposed *amicus* states as follows:

CLI engages in groundbreaking scientific, statistical, and medical research about abortion, including chemical abortion. As a result of this expertise, CLI is uniquely suited to address the issue of chemical abortion in this case from a scientific, medical, and economic perspective. Further, CLI believes there are extraordinary and compelling reasons for its brief to exceed the page limit, including the fact that this lawsuit is the first of its kind and involves the scientific basis for the FDA’s regulation of chemical abortion drugs over the last 23 years.

The decision to permit *amicus* briefing “lies solely within the court’s discretion.” *U.S. ex rel. Gudur v. Deloitte Consulting LLP*, 512 F. Supp. 2d 920, 927 (S.D. Tex. 2007), *aff’d sub nom. U.S. ex rel. Gudur v. Deloitte & Touche*, No. 07- 20414, 2008 WL 3244000 (5th Cir. Aug. 7, 2008). And the general rule is that an “amicus brief should normally be allowed . . . when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties

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<sup>1</sup> As noted in the Certificate of Conference, Defendants take no position on the motion insofar as it seeks leave to exceed the page limit.

are able to provide.” *In re Halo Wireless, Inc.*, 684 F.3d 581, 596 (5th Cir. 2012) (quoting *Ryan v. CFTC*, 125 F.3d 1062, 1063 (7th Cir. 1997) (Posner, J.)).

The decision to permit the filing of a brief in excess of the 25-page limitation is also within this Court’s discretion. *See* Local Rule 7.2(c) (“Permission to file a brief in excess of these page limitations will be granted by the presiding judge only for extraordinary and compelling reasons.”).

This Court should exercise its discretion to grant CLI’s motion. First, the Court should permit the filing of the attached *amicus* brief. CLI’s network consists of over 70 Associate Scholars, who are experts in medicine, statistical analysis, sociology, science, bioethics, public health, law, and social services for women and family. And CLI has leveraged this network to provide important insights in many significant abortion cases. In fact, CLI’s research on abortion was cited in 17 *amicus* briefs submitted to the Supreme Court in *Dobbs v. Jackson Whole Women’s Health Organization*, 142 S. Ct. 2228 (2022).

In this case, CLI’s brief furthers its interest in applying proper scientific principles to abortion and does not unduly repeat the parties’ arguments. CLI provides a distinct perspective because its brief draws on a wealth of knowledge from its network of scholars on the issue of chemical abortion.

Second, given the complex scientific issues in this novel case and CLI’s unique ability to address those issues, CLI also requests leave to exceed the page limit for its *amicus* brief. The brief is 45 pages, excluding the cover sheet, table of contents, table of authorities, and index of exhibits.

The parties and this Court have already recognized that the issues in this case merit longer briefs. *See* ECF No. 15. And in addition to their longer briefs regarding the preliminary injunction, the parties have filed appendices that include dozens of declarations and scientific articles.

Given the abundance of complex scientific issues this Court will need to sift through, CLI's research expertise on these issues, and the fact that this case concerns a novel challenge to the FDA's 23-year regulation of chemical abortions drugs, there are "extraordinary and compelling reasons" to grant CLI's motion. *See* Local Rule 7.2(c).

For the foregoing reasons, CLI respectfully requests that the Court grant this motion for leave to file an *amicus* brief in excess of the page limitation.

February 10, 2023

Respectfully submitted,

/s/ Cristina Martinez Squiers

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### **CERTIFICATE OF CONFERENCE**

On February 9, 2023, I conferred via email with Erik Baptist, counsel for Plaintiffs, and Jessica Ellsworth, counsel for Intervenor-Defendant, regarding the relief requested herein. Both parties consent to the relief requested herein. On February 10, 2023, I conferred with Noah T. Katzen, counsel for the Defendants, by email. Mr. Katzen stated that the government consents to the filing of the *amicus* brief and takes no position on the motion to exceed the page limit.

/s/ Cristina Martinez Squiers

Cristina Martinez Squiers

*Counsel for Proposed Amicus Curiae  
Charlotte Lozier Institute*

### **CERTIFICATE OF SERVICE**

On February 10, 2023, I filed the foregoing document with the clerk of court for the United States District Court, Northern District of Texas. I hereby certify that I have served the document on all counsel and/or pro se parties of record by a manner authorized by Federal Rule of Civil Procedure 5(b)(2) (ECF System).

/s/ Cristina Martinez Squiers

Cristina Martinez Squiers

*Counsel for Proposed Amicus Curiae  
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